

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Policy and Operations

4 (Amendment)

5 907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic ser-
6 vices.

7 RELATES TO: KRS 205.520, 314.011, 319.050, 335.100, 42 C.F.R 400.203, 42
8 C.F.R. 405.2401(b), 405.2412-405.2417, 405.2450, 405.2452, 405.2468, 440.20, 42
9 C.F.R. 491.1-491.11, 42 U.S.C. 1395x(aa) and (hh)

10 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

11 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
12 Services, Department for Medicaid Services has responsibility to administer the Medi-
13 caid Program. KRS Chapter 205.520(3) authorizes the cabinet, by administrative regu-
14 lation, to comply with any requirement that may be imposed or opportunity presented by
15 federal law to qualify for federal Medicaid funds~~[for the provision of medical assistance~~
16 ~~to Kentucky's indigent citizenry]~~. This administrative regulation establishes the Medicaid
17 Program coverage provisions and requirements relating to ~~coverage of~~ rural health clin-
18 ic services ~~[for which payment shall be made by the Medicaid Program on behalf of~~
19 ~~both categorically needy and medically needy]~~.

20 Section 1. Definitions. (1) "Advanced practice registered nurse~~[practitioner]~~" is de-
21 fined by KRS Chapter 314.011(7).

(2) "Certified social worker" means an individual who:

(a) Meets the requirements established in KRS 335.080; and

(b) Has at least a master's degree in social work.

(3) "Clinical psychologist" means a doctorate level psychologist who is licensed in accordance with KRS 319.050.

(4) "Club house model of psychosocial rehabilitation" means a form of psychosocial rehabilitation that focuses on self-help, friendship, emotional support, acceptance, and meaningful and gainful employment.

(5) "Community support associate" means an individual who meets the community support associate requirements established in 908 KAR 2:250.

(6)[(3)] "Department" means the Department for Medicaid Services or its designee.

(7) "Enrollee" means a recipient who is enrolled with a managed care organization.

(8) "Face-to-face" means occurring:

(a) In person; or

(b) Via a real-time, electronic communication that involves two (2)-way interactive video and audio communication.

(9) "Family peer support specialist" means an individual who meets the requirements for a Kentucky family peer support specialist established in 908 KAR 2:230.

(10) "Federal financial participation" is defined in 42 C.F.R. 400.203.

(11) "Fountain House" means the professional self-help program located in New York City about which information is available on the Web Site of <http://www.fountainhouse.org/>.

(12)[(4)] "Homebound recipient" is defined by 42 C.F.R. 440.20(b)(4)(iv).

1 (13)[(5)] "Intermittent nursing care" is defined by 42 C.F.R. 405.2401(b).

2 (14)[(6)] "Licensed clinical social worker" means an individual who meets the li-
3 censed clinical social worker requirements established in KRS 335.100.

4 (15) "Licensed marriage and family therapist" is defined by KRS 335.300(2).

5 (16) "Licensed professional clinical counselor" is defined by KRS 335.500(3).

6 (17) "Licensed professional counselor associate" is defined by KRS 335.500(3).

7 (18) "Licensed psychological associate" means an individual who:

8 (a) Currently possesses a licensed psychological associate license in accordance
9 with KRS 319.010(6); and

10 (b) Meets the licensed psychological associate requirements established in Chapter
11 26 of the Kentucky Administrative Regulations.

12 (19) "Licensed psychological practitioner" means an individual who meets the re-
13 quirements established in KRS 319.053.

14 (20) "Licensed psychologist" means an individual who:

15 (a) Currently possesses a licensed psychologist license in accordance with KRS
16 319.010(6); and

17 (b) Meets the licensed psychologist requirements established in Chapter 26 of the
18 Kentucky Administrative Regulations.

19 (21) "Marriage and family therapy associate" is defined by KRS 335.300(3).

20 (22) "Managed care organization" means an entity for which the Department for Med-
21 icaid Services has contracted to serve as a managed care organization as defined in 42
22 C.F.R. 438.2.

23 (23)[(7)] "Medically necessary" means that a covered benefit or service is necessary

1 in accordance with ~~[the provisions of]~~ 907 KAR 3:130~~[, Section 2]~~.

2 ~~(24)[(8)]~~ "Nurse-midwife" is defined by 42 C.F.R. 405.2401(b).

3 ~~(25)[(9)]~~ "Other ambulatory services" is defined by 42 C.F.R. 440.20(c).

4 ~~(26)[(10)]~~ "Part-time nursing care" is defined by 42 C.F.R. 405.2401(b).

5 (27) "Peer support specialist" means an individual who meets the peer specialist
6 qualifications established in 908 KAR 2:220.

7 ~~(28)[(11)]~~ "Physician" is defined by KRS 205.510(11) and 42 C.F.R. 405.2401(b).

8 ~~(29)[(12)]~~ "Physician assistant" is defined by KRS 311.840(3) and 42 C.F.R.
9 405.2401(b).

10 (30) "Qualified mental health professional" is defined by KRS 202A.011(12).

11 (31) "Recipient" is defined by KRS 205.8451(9).

12 ~~(32)[(13)]~~ "Rural health clinic" or "RHC" is defined by 42 C.F.R. 405.2401(b).

13 ~~(33)[(14)]~~ "State plan" is defined by 42 C.F.R. 400.203.

14 ~~(34)[(15)]~~ "Visiting nurse services" is defined by 42 C.F.R. 405.2401(b).

15 (35) "Youth peer support specialist" means an individual who meets the requirements
16 established for a Kentucky youth peer support specialist established in 908 KAR 2:240.

17 Section 2. Covered Services Other Than Behavioral Health Services. The depart-
18 ment shall cover the following medically necessary rural health clinic services furnished
19 by an RHC that has been certified in accordance with 42 C.F.R. 491.1 through 491.11:

20 (1) Services pursuant to 42 U.S.C. 1395x(aa);

21 (2) Services provided by a physician if the physician:

22 (a) Complies with the physician responsibility requirements established by 42 C.F.R.
23 491.8(b); and

- 1 (b)1. Performs the services in an RHC; or
- 2 2. Is compensated under an agreement with an RHC for providing services furnished
- 3 to a Medicaid eligible RHC patient in a location other than the RHC;
- 4 (3) Services provided by a physician assistant, advanced practice registered nurse[
- 5 ~~practitioner~~], or nurse midwife who is employed by or receives compensation from the
- 6 RHC if the services:
- 7 (a) Are furnished by a member of the RHC's staff who complies with the responsibil-
- 8 ity requirements established by 42 C.F.R. 491.8(c);
- 9 (b) Are furnished under the medical supervision of a physician;
- 10 (c) Are furnished in accordance with a medical order for the care and treatment of a
- 11 patient as prepared by a physician;
- 12 (d) Are within the provider's legally-authorized scope of practice; and
- 13 (e) Would be covered if furnished by a physician;
- 14 (4) Services or supplies furnished as an incident to services provided by a physician,
- 15 physician assistant, advanced practice registered nurse[~~practitioner~~], or nurse midwife
- 16 if the service or supply meets the criteria established in 42 C.F.R. 405.2413 or 42
- 17 C.F.R. 405.2415;
- 18 (5) Part-time or intermittent visiting nurse care and related supplies, except for drugs
- 19 or biologicals, if:
- 20 (a) The RHC is located in an area where a determination has been made that there
- 21 is a shortage of home health agencies pursuant to 42 C.F.R. 405.2417;
- 22 (b) The services are provided by a registered nurse, licensed practical nurse, or a li-
- 23 censed vocational nurse who is employed by or compensated for the services by the

1 RHC; and

2 (c) The services are furnished to a homebound recipient under a written plan of
3 treatment that is:

4 1. Established and reviewed at least every sixty (60) days by a supervising physician
5 of the RHC; or

6 2. Established by a physician, physician assistant, advanced practice registered
7 nurse[~~practitioner~~], or nurse midwife and reviewed and approved at least every sixty
8 (60) days by a supervising physician of the RHC;

9 (6) [~~Behavioral health services provided by a clinical psychologist, licensed clinical
10 social worker, or advanced registered nurse practitioner if the services are:~~

11 (a) ~~Provided by an individual who is employed by or furnishes services under con-
12 tract to the RHC; and~~

13 (b) ~~Within the provider's legally authorized scope of practice;~~

14 (7) ~~Services or supplies incident to a clinical psychologist's or licensed clinical social
15 worker's behavioral health services if the service or supply meets the criteria estab-
16 lished in 42 C.F.R. 405.2452; and~~

17 (8)] Other ambulatory services as established in the state plan.

18 Section 3. Behavioral Health Services. (1) Except as specified in the requirements
19 stated for a given service, the services covered may be provided for a:

20 (a) Mental health disorder;

21 (b) Substance use disorder; or

22 (c) Co-occurring mental health and substance use disorder.

23 (2) The department shall cover - and a rural health clinic may provide - the following

services:

(a) Behavioral health services provided by a clinical psychologist, licensed clinical social worker, or advanced registered nurse practitioner within the provider's legally authorized scope of service; or

(b) Services or supplies incidental to a clinical psychologist's or licensed clinical social worker's behavioral health services if the service or supply meets the criteria established in 42 C.F.R.

(3) In addition to the services referenced in subsection (2) of this section, the following behavioral health services provided by a rural health clinic shall be covered under this administrative regulation in according with the corresponding following requirements:

(a) A screening provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a

licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service; or

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

(b) An assessment provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

1 11. A certified social worker working under the supervision of a licensed clinical so-
2 cial worker if the licensed clinical social worker is the billing provider for the service;

3 12. A marriage and family therapy associate working under the supervision of a
4 licensed marriage and family therapist if the licensed marriage and family therapist
5 is the billing provider for the service; or

6 13. A physician assistant working under the supervision of a physician if the physi-
7 cian is the billing provider for the service;

8 (c) Psychological testing provided by:

9 1. A licensed psychologist;

10 2. A licensed psychological practitioner; or

11 3. A licensed psychological associate working under the supervision of a licensed
12 psychologist if the licensed psychologist is the billing provider for the service;

13 (d) Crisis intervention provided by:

14 1. A licensed psychologist;

15 2. A licensed professional clinical counselor;

16 3. A licensed clinical social worker;

17 4. A licensed marriage and family therapist;

18 5. A physician;

19 6. A psychiatrist;

20 7. An advanced practice registered nurse;

21 8. A licensed psychological practitioner;

22 9. A licensed psychological associate working under the supervision of a licensed
23 psychologist if the licensed psychologist is the billing provider for the service;

1 10. A licensed professional counselor associate working under the supervision of a
2 licensed professional clinical counselor if the licensed professional clinical counselor
3 is the billing provider for the service;

4 11. A certified social worker working under the supervision of a licensed clinical so-
5 cial worker if the licensed clinical social worker is the billing provider for the service;

6 12. A marriage and family therapy associate working under the supervision of a li-
7 censed marriage and family therapist if the licensed marriage and family therapist is the
8 billing provider for the service; or

9 13. A physician assistant working under the supervision of a physician if the physi-
10 cian is the billing provider for the service;

11 14. A peer support specialist working under the supervision of a mental health
12 professional;

13 15. A family peer support specialist working under the supervision of a mental health
14 professional; or

15 16. A youth peer support specialist working under the supervision of a mental health
16 professional;

17 (e) Service planning provided by:

18 1. A licensed psychologist;

19 2. A licensed professional clinical counselor;

20 3. A licensed clinical social worker;

21 4. A licensed marriage and family therapist;

22 5. A physician;

23 6. A psychiatrist;

- 1 7. An advanced practice registered nurse;
- 2 8. A licensed psychological practitioner;
- 3 9. A licensed psychological associate working under the supervision of a licensed
- 4 psychologist if the licensed psychologist is the billing provider for the service;
- 5 10. A licensed professional counselor associate working under the supervision of a
- 6 licensed professional clinical counselor if the licensed professional clinical counselor
- 7 is the billing provider for the service;
- 8 11. A certified social worker working under the supervision of a licensed clinical
- 9 social worker if the licensed clinical social worker is the billing provider for the service;
- 10 12. A marriage and family therapy associate working under the supervision of a
- 11 Licensed marriage and family therapist if the licensed marriage and family therapist
- 12 is the billing provider for the service; or
- 13 13. A physician assistant working under the supervision of a physician if the physi-
- 14 cian is the billing provider for the service;
- 15 (f) Individual outpatient therapy provided by:
- 16 1. A licensed psychologist;
- 17 2. A licensed professional clinical counselor;
- 18 3. A licensed clinical social worker;
- 19 4. A licensed marriage and family therapist;
- 20 5. A physician;
- 21 6. A psychiatrist;
- 22 7. An advanced practice registered nurse;
- 23 8. A licensed psychological practitioner;

1 9. A licensed psychological associate working under the supervision of a licensed
2 psychologist if the licensed psychologist is the billing provider for the service;

3 10. A licensed professional counselor associate working under the supervision of a
4 licensed professional clinical counselor if the licensed professional clinical counselor
5 is the billing provider for the service;

6 11. A certified social worker working under the supervision of a licensed clinical so-
7 cial worker if the licensed clinical social worker is the billing provider for the service;

8 12. A marriage and family therapy associate working under the supervision of a li-
9 censed marriage and family therapist if the licensed marriage and family therapist is the
10 billing provider for the service; or

11 13. A physician assistant working under the supervision of a physician if the
12 physician is the billing provider for the service;

13 (g) Family outpatient therapy provided by:

14 1. A licensed psychologist;

15 2. A licensed professional clinical counselor;

16 3. A licensed clinical social worker;

17 4. A licensed marriage and family therapist;

18 5. A physician;

19 6. A psychiatrist;

20 7. An advanced practice registered nurse;

21 8. A licensed psychological practitioner;

22 9. A licensed psychological associate working under the supervision of a licensed
23 psychologist if the licensed psychologist is the billing provider for the service;

1 10. A licensed professional counselor associate working under the supervision of a
2 licensed professional clinical counselor if the licensed professional clinical counselor
3 is the billing provider for the service;

4 11. A certified social worker working under the supervision of a licensed clinical so-
5 cial worker if the licensed clinical social worker is the billing provider for the service;

6 12. A marriage and family therapy associate working under the supervision of a li-
7 censed marriage and family therapist if the licensed marriage and family therapist is the
8 billing provider for the service; or

9 13. A physician assistant working under the supervision of a physician if the physi-
10 cian is the billing provider for the service;

11 (h) Group outpatient therapy provided by:

12 1. A licensed psychologist;

13 2. A licensed professional clinical counselor;

14 3. A licensed clinical social worker;

15 4. A licensed marriage and family therapist;

16 5. A physician;

17 6. A psychiatrist;

18 7. An advanced practice registered nurse;

19 8. A licensed psychological practitioner;

20 9. A licensed psychological associate working under the supervision of a licensed
21 psychologist if the licensed psychologist is the billing provider for the service;

22 10. A licensed professional counselor associate working under the supervision of a
23 licensed professional clinical counselor if the licensed professional clinical counselor

1 is the billing provider for the service;

2 11. A certified social worker working under the supervision of a licensed clinical so-

3 cial worker if the licensed clinical social worker is the billing provider for the service;

4 12. A marriage and family therapy associate working under the supervision of a li-

5 censed marriage and family therapist if the licensed marriage and family therapist is the

6 billing provider for the service; or

7 13. A physician assistant working under the supervision of a physician if the physi-

8 cian is the billing provider for the service;

9 (i) Collateral outpatient therapy provided by:

10 1. A licensed psychologist;

11 2. A licensed professional clinical counselor;

12 3. A licensed clinical social worker;

13 4. A licensed marriage and family therapist;

14 5. A physician;

15 6. A psychiatrist;

16 7. An advanced practice registered nurse;

17 8. A licensed psychological practitioner;

18 9. A licensed psychological associate working under the supervision of a licensed

19 psychologist if the licensed psychologist is the billing provider for the service;

20 10. A licensed professional counselor associate working under the supervision of a

21 licensed professional clinical counselor if the licensed professional clinical counselor

22 is the billing provider for the service;

23 11. A certified social worker working under the supervision of a licensed clinical so-

1 cial worker if the licensed clinical social worker is the billing provider for the service;

2 12. A marriage and family therapy associate working under the supervision of a li-
3 censed marriage and family therapist if the licensed marriage and family therapist is the
4 billing provider for the service; or

5 13. A physician assistant working under the supervision of a physician if the physi-
6 cian is the billing provider for the service;

7 (j) A screening, brief intervention, and referral to treatment for a substance use dis-
8 order provided by:

9 1. A licensed psychologist;

10 2. A licensed professional clinical counselor;

11 3. A licensed clinical social worker;

12 4. A licensed marriage and family therapist;

13 5. A physician;

14 6. A psychiatrist;

15 7. An advanced practice registered nurse;

16 8. A licensed psychological practitioner;

17 9. A licensed psychological associate working under the supervision of a licensed
18 psychologist if the licensed psychologist is the billing provider for the service;

19 10. A licensed professional counselor associate working under the supervision of a
20 licensed professional clinical counselor if the licensed professional clinical counselor
21 is the billing provider for the service;

22 11. A certified social worker working under the supervision of a licensed clinical so-
23 cial worker if the licensed clinical social worker is the billing provider for the service;

1 12. A marriage and family therapy associate working under the supervision of a li-
2 censed marriage and family therapist if the licensed marriage and family therapist is the
3 billing provider for the service; or

4 13. A physician assistant working under the supervision of a physician if the physi-
5 cian is the billing provider for the service;

6 (k) Medication assisted treatment for a substance use disorder provided by:

7 1. A physician; or

8 2. A psychiatrist;

9 (l) Day treatment provided by a team of at least two (2) of the following:

10 1. A licensed psychologist;

11 2. A licensed professional clinical counselor;

12 3. A licensed clinical social worker;

13 4. A licensed marriage and family therapist;

14 5. A physician;

15 6. A psychiatrist;

16 7. An advanced practice registered nurse;

17 8. A licensed psychological practitioner;

18 9. A licensed psychological associate working under the supervision of a licensed
19 psychologist if the licensed psychologist is the billing provider for the service;

20 10. A licensed professional counselor associate working under the supervision of a
21 licensed professional clinical counselor if the licensed professional clinical counselor
22 is the billing provider for the service;

23 11. A certified social worker working under the supervision of a licensed clinical so-

1 cial worker if the licensed clinical social worker is the billing provider for the service;

2 12. A marriage and family therapy associate working under the supervision of a
3 licensed marriage and family therapist if the licensed marriage and family therapist
4 is the billing provider for the service;

5 13. A physician assistant working under the supervision of a physician if the physi-
6 cian is the billing provider for the service;

7 14. Peer support specialist working under the supervision of a mental health profes-
8 sional;

9 15. A family peer support specialist working under the supervision of a mental health
10 professional; or

11 16. A youth peer support specialist working under the supervision of a mental health
12 professional;

13 (m) Comprehensive community support services provided by a team of at least two
14 (2) of the following:

15 1. A licensed psychologist;

16 2. A licensed professional clinical counselor;

17 3. A licensed clinical social worker;

18 4. A licensed marriage and family therapist;

19 5. A physician;

20 6. A psychiatrist;

21 7. An advanced practice registered nurse;

22 8. A licensed psychological practitioner;

23 9. A licensed psychological associate working under the supervision of a licensed

1 psychologist if the licensed psychologist is the billing provider for the service;

2 10. A licensed professional counselor associate working under the supervision of a
3 licensed professional clinical counselor if the licensed professional clinical counselor
4 is the billing provider for the service;

5 11. A certified social worker working under the supervision of a licensed clinical so-
6 cial worker if the licensed clinical social worker is the billing provider for the service;

7 12. A marriage and family therapy associate working under the supervision of a
8 licensed marriage and family therapist if the licensed marriage and family therapist
9 is the billing provider for the service;

10 13. A physician assistant working under the supervision of a physician if the physi-
11 cian is the billing provider for the service;

12 14. A peer support specialist working under the supervision of a mental health pro-
13 fessional;

14 15. A family peer support specialist working under the supervision of a mental health
15 professional;

16 16. A youth peer support specialist working under the supervision of a mental health
17 professional; or

18 17. A community support associate; or

19 (n) Peer support provided by:

20 1. A peer support specialist working under the supervision of a mental health profes-
21 sional;

22 2. A family peer support specialist working under the supervision of a mental health
23 professional; or

1 3. A youth peer support specialist working under the supervision of a mental health
2 professional.

3 (o) Mobile crisis services provided by a team of at least two (2) of the following:

4 1. A licensed psychologist;

5 2. A licensed professional clinical counselor;

6 3. A licensed clinical social worker;

7 4. A licensed marriage and family therapist;

8 5. A physician;

9 6. A psychiatrist;

10 7. An advanced practice registered nurse;

11 8. A licensed psychological practitioner;

12 9. A licensed psychological associate working under the supervision of a licensed
13 psychologist if the licensed psychologist is the billing provider for the service;

14 10. A licensed professional counselor associate working under the supervision of a
15 licensed professional clinical counselor if the licensed professional clinical counselor
16 is the billing provider for the service;

17 11. A certified social worker working under the supervision of a licensed clinical so-
18 cial worker if the licensed clinical social worker is the billing provider for the service;

19 12. A marriage and family therapy associate working under the supervision of a li-
20 censed marriage and family therapist if the licensed marriage and family therapist is the
21 billing provider for the service;

22 13. A physician assistant working under the supervision of a physician if the physi-
23 cian is the billing provider for the service;

1 14. Peer support specialist working under the supervision of a mental health profes-
2 sional;

3 15. A family peer support specialist working under the supervision of a mental health
4 professional; or

5 16. A youth peer support specialist working under the supervision of a mental health
6 professional;

7 (p) Assertive community treatment provided by a team that includes at least two (2)
8 of the following:

9 1. A licensed psychologist;

10 2. A licensed professional clinical counselor;

11 3. A licensed clinical social worker;

12 4. A licensed marriage and family therapist;

13 5. A physician;

14 6. A psychiatrist;

15 7. An advanced practice registered nurse;

16 8. A licensed psychological practitioner;

17 9. A licensed psychological associate working under the supervision of a licensed
18 psychologist if the licensed psychologist is the billing provider for the service;

19 10. A licensed professional counselor associate working under the supervision of a
20 licensed professional clinical counselor if the licensed professional clinical counselor
21 is the billing provider for the service;

22 11. A certified social worker working under the supervision of a licensed clinical so-
23 cial worker if the licensed clinical social worker is the billing provider for the service;

1 12. A marriage and family therapy associate working under the supervision of a li-
2 censed marriage and family therapist if the licensed marriage and family therapist is the
3 billing provider for the service;

4 13. A physician assistant working under the supervision of a physician if the physi-
5 cian is the billing provider for the service;

6 14. Peer support specialist working under the supervision of a mental health profes-
7 sional;

8 15. A family peer support specialist working under the supervision of a mental health
9 professional; or

10 16. A youth peer support specialist working under the supervision of a mental health
11 professional;

12 (q) Intensive outpatient program provided by a team that includes at least two (2) of
13 the following:

14 1. A licensed psychologist;

15 2. A licensed professional clinical counselor;

16 3. A licensed clinical social worker;

17 4. A licensed marriage and family therapist;

18 5. A physician;

19 6. A psychiatrist;

20 7. An advanced practice registered nurse;

21 8. A licensed psychological practitioner;

22 9. A licensed psychological associate working under the supervision of a licensed
23 psychologist if the licensed psychologist is the billing provider for the service;

1 10. A licensed professional counselor associate working under the supervision of a
2 licensed professional clinical counselor if the licensed professional clinical counselor
3 is the billing provider for the service;

4 11. A certified social worker working under the supervision of a licensed clinical so-
5 cial worker if the licensed clinical social worker is the billing provider for the service;

6 12. A marriage and family therapy associate working under the supervision of a li-
7 censed marriage and family therapist if the licensed marriage and family therapist is the
8 billing provider for the service;

9 13. A physician assistant working under the supervision of a physician if the physi-
10 cian is the billing provider for the service;

11 (r) Residential crisis stabilization provided by a team of at least two (2) of the follow-
12 ing;

13 1. A licensed psychologist;

14 2. A licensed professional clinical counselor;

15 3. A licensed clinical social worker;

16 4. A licensed marriage and family therapist;

17 5. A physician;

18 6. A psychiatrist;

19 7. An advanced practice registered nurse;

20 8. A licensed psychological practitioner;

21 9. A licensed psychological associate working under the supervision of a licensed
22 psychologist if the licensed psychologist is the billing provider for the service;

23 10. A licensed professional counselor associate working under the supervision of a

licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

14. Peer support specialist working under the supervision of a mental health professional;

15. A family peer support specialist working under the supervision of a mental health professional; or

16. A youth peer support specialist working under the supervision of a mental health professional;

(s) Residential services for substance use disorders provided by a team of at least two (2) of the following:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

1 7. An advanced practice registered nurse;

2 8. A licensed psychological practitioner;

3 9. A licensed psychological associate working under the supervision of a licensed
4 psychologist if the licensed psychologist is the billing provider for the service;

5 10. A licensed professional counselor associate working under the supervision of a
6 licensed professional clinical counselor if the licensed professional clinical counselor
7 is the billing provider for the service;

8 11. A certified social worker working under the supervision of a licensed clinical so-
9 cial worker if the licensed clinical social worker is the billing provider for the service;

10 12. A marriage and family therapy associate working under the supervision of a li-
11 censed marriage and family therapist if the licensed marriage and family therapist is the
12 billing provider for the service;

13 13. A physician assistant working under the supervision of a physician if the physi-
14 cian is the billing provider for the service;

15 14. Peer support specialist working under the supervision of a mental health profes-
16 sional;

17 15. A family peer support specialist working under the supervision of a mental health
18 professional; or

19 16. A youth peer support specialist working under the supervision of a mental health
20 professional;

21 (t) Therapeutic rehabilitation program services provided by a team of at least two (2)
22 of the following individuals:

23 1. A licensed psychologist;

2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;
11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;
13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;
14. Peer support specialist working under the supervision of a mental health professional;
15. A family peer support specialist working under the supervision of a mental health professional; or

1 16. A youth peer support specialist working under the supervision of a mental health
2 professional; or

3 (u) Parent or family peer support provided by:

4 1. A peer support specialist working under the supervision of a mental health profes-
5 sional;

6 2. A family peer support specialist working under the supervision of a mental health
7 professional; or

8 3. A youth peer support specialist working under the supervision of a mental health
9 professional.

10 (4)(a) A screening shall:

11 1. Be the determination of the likelihood that an individual has a mental health disor-
12 der, substance use disorder, or co-occurring disorder;

13 2. Not establish the presence or specific type of disorder; and

14 3. Establish the need for an in-depth assessment.

15 (b) An assessment shall:

16 1. Include gathering information and engaging in a process with the individual that
17 enables the provider to:

18 a. Establish the presence or absence of a mental health disorder or substance use
19 disorder;

20 b. Determine the individual's readiness for change;

21 c. Identify the individual's strengths or problem areas that may affect the treatment
22 and recovery processes; and

23 d. Engage the individual in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinic disorder or service need;
 3. Including working with the individual to develop a treatment and service plan; and
 4. Not include psychological or psychiatric evaluations or assessments.
- (c) Psychological testing shall include:
1. A psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities; and
 2. Interpretation and a written report of testing results.
- (d) Crisis intervention:
1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:
 - a. The recipient; or
 - b. Another individual;
 2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for individuals with behavioral health disorders;
 3. Shall be provided:
 - a. In an office, home, or community setting where the individual is experiencing the crisis;
 - b. As an immediate relief to the presenting problem or threat; and
 - c. In a face-to-face, one (1)-on-one (1) encounter between the provider and the recipient;
 4. May include verbal de-escalation, risk assessment, or cognitive therapy; and
 5. Shall be followed by a referral to non-crisis services if applicable.

1 (e)1. Service planning shall consist of assisting a recipient in creating an individual-
2 ized plan for services needed to maintain functional stability or return to stability as
3 soon as possible in order to avoid out-of-home care.

4 2. A service plan:

5 a. Shall be directed by the recipient; and

6 b. May include:

7 (i) A mental health advance directive being filed with a local hospital;

8 (ii) A crisis plan; or

9 (iii) A relapse prevention strategy or plan.

10 (f) Individual outpatient therapy shall:

11 1. Be provided to promote the:

12 a. Health and wellbeing of the individual; or

13 b. Recovery from a substance related disorder;

14 2. Consist of:

15 a. A face-to-face, one (1)-on-one (1) encounter between the provider and recipient;

16 and

17 b. A behavioral health therapeutic intervention provided in accordance with the recip-
18 ient's identified treatment plan;

19 3. Be aimed at:

20 a. Reducing adverse symptoms;

21 b. Reducing or eliminating the presenting problem of the recipient; and

22 c. Improving functioning; and

23 4. Not exceed three (3) hours per day.

1 (g)1. Family outpatient therapy shall consist of a face-to-face behavioral health ther-
2 apeutic intervention provided:

3 a. Through scheduled therapeutic visits between the therapist and the recipient and
4 at least one (1) member of the recipient's family; and

5 b. To address issues interfering with the relational functioning of the family and to
6 improve interpersonal relationships within the recipient's home environment.

7 2. A family outpatient therapy session shall be billed as one (1) service regardless of
8 the number of individuals [including multiple members from one (1) family] who partici-
9 pate in the session.

10 (h)1. Group outpatient therapy shall:

11 a. Be provided to promote the:

12 (i) Health and wellbeing of the individual; or

13 (ii) Recovery from a substance related disorder;

14 b. Consist of a face-to-face behavioral health therapeutic intervention provided in ac-
15 cordance with the recipient's identified treatment plan;

16 c. Be provided to a recipient in a group setting:

17 (i) Of non-related individuals; and

18 (ii) Not to exceed eight (8) individuals in size;

19 d. Center on goals including building and maintaining healthy relationships, personal
20 goals setting, and the exercise of personal judgment;

21 e. Not include physical exercise, a recreational activity, an educational activity, or a
22 social activity; and

23 f. Not exceed three (3) hours per day.

1 2. The group shall have a:

2 a. Deliberate focus; and

3 b. Defined course of treatment.

4 3. The subject of a group receiving group outpatient therapy shall be related to each
5 recipient participating in the group.

6 4. The provider shall keep individual notes regarding each recipient within the group
7 and within each recipient's health record.

8 (i) 1. Collateral outpatient therapy shall:

9 a. Consist of a face-to-face behavioral health consultation:

10 (i) With a parent or caregiver of a recipient, household member of a recipient, legal
11 representative of a recipient, school personnel, treating professional, or other person
12 with custodial control or supervision of the recipient; and

13 (ii) That is provided in accordance with the recipient's treatment plan; and

14 b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21)
15 years of age.

16 2. Consent to discuss a recipient's treatment with any person other than a parent or
17 legal guardian shall be signed and filed in the recipient's health record.

18 (j) Screening, brief intervention, and referral to treatment for a substance use disor-
19 der
20 shall:

21 1. Be an evidence-based early intervention approach for an individual with non-
22 dependent substance use to provide an effective strategy for intervention prior to the
23 need for more extensive or specialized treatment; and

- 1 2. Consist of:
- 2 a. Using a standardized screening tool to assessing an individual for risky substance
- 3 use behavior;
- 4 b. Engaging a recipient, who demonstrates risky substance use behavior, in a short
- 5 conversation and providing feedback and advice; and
- 6 c. Referring a recipient to:
- 7 (i) Therapy; or
- 8 (ii) Other additional services to address substance use if the recipient is determined
- 9 to need other additional services.
- 10 (k) Medication assisted treatment for a substance use disorder:
- 11 1. Shall include:
- 12 a. Any opioid addiction treatment that includes a United States Food and Drug
- 13 Administration-approved medication for the detoxification or maintenance treatment of
- 14 opioid addiction along with counseling or other supports;
- 15 b. Comprehensive maintenance;
- 16 c. Medical maintenance;
- 17 d. Interim maintenance;
- 18 e. Detoxification; or
- 19 f. Medically supervised withdrawal;
- 20 2. May be provided in:
- 21 a. An opioid treatment program;
- 22 b. A medication unit affiliated with an opioid treatment program;
- 23 c. A physician's office; or

1 d. Other community setting; and

2 3. Shall increase the likelihood for cessation of illicit opioid use or prescription opioid
3 abuse.

4 (l)1. Day treatment shall be a non-residential, intensive treatment program designed
5 for a child under the age of twenty-one (21) years who has:

6 a. An emotional disability or neurobiological or substance use disorder; and

7 b. A high risk of out-of-home placement due to a behavioral health issue.

8 2. Day treatment services shall:

9 a. Consist of an organized, behavioral health program of treatment and rehabilitative
10 services (substance use disorder, mental health, or co-occurring mental health and
11 substance use disorder);

12 b. Have unified policies and procedures that:

13 (i) Address the program philosophy, admission and discharge criteria, admission and
14 discharge process, staff training, and integrated case planning; and

15 (ii) Have been approved by the recipient's local education authority and the day
16 treatment provider;

17 c. Include:

18 (i) Individual outpatient therapy, family outpatient therapy, or group outpatient thera-
19 py;

20 (ii) Behavior management and social skill training;

21 (iii) Independent living skills that correlate to the age and development stage of the
22 recipient; or

23 (iv) Services designed to explore and link with community resources before dis-

charge and to assist the recipient and family with transition to community services after discharge; and

d. Be provided:

(i) In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

(ii) On school days and during scheduled breaks;

(iii) In coordination with the recipient's individual educational plan if the recipient has an individual educational plan;

(iv) Under the supervision of a licensed or certified behavioral health practitioner or a behavioral health practitioner working under clinical supervision; and

(v) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, an RHC shall have:

a. The capacity to employ staff authorized to provide day treatment services in accordance with subsection (3)(l) of this section and to coordinate the provision of services among team members;

b. The capacity to provide the full range of residential crisis stabilization services as stated in subparagraph 1 of this paragraph;

c. Demonstrated experience in serving individuals with behavioral health disorders;

d. The administrative capacity to ensure quality of services;

e. A financial management system that provides documentation of services and costs;

1 f. The capacity to document and maintain individual case records; and

2 g. Knowledge of substance use disorders.

3 4. Day treatment shall not include a therapeutic clinical service that is included in a
4 child's individualized education plan.

5 (m)1. Comprehensive community support services shall:

6 a. Be activities necessary to allow an individual to live with maximum independence
7 in community-integrated housing;

8 b. Be intended to ensure successful community living through the utilization of skills
9 training, cueing, or supervision as identified in the recipient's treatment plan;

10 c. Include:

11 (i) Reminding a recipient to take medications and monitoring symptoms and side ef-
12 fects of medications; or

13 (ii) Teaching parenting skills, teaching community resource access and utilization,
14 teaching emotional regulation skills, teaching crisis coping skills, teaching how to shop,
15 teaching about transportation, teaching financial management, or developing and en-
16 hancing interpersonal skills; and

17 c. Meet the requirements for comprehensive community support services established
18 in 908 KAR 2:250.

19 3. To provide comprehensive community support services, an RHC shall have:

20 a. The capacity to employ staff authorized to provide comprehensive community
21 support services in accordance with subsection (3)(m) of this section and to coordinate
22 the provision of services among team members;

23 b. The capacity to provide the full range of comprehensive community support ser-

vices as stated in this subparagraph 1 of this paragraph;

c. Demonstrated experience in serving individuals with behavioral health disorders;

d. The administrative capacity to ensure quality of services;

e. A financial management system that provides documentation of services and costs; and

f. The capacity to document and maintain individual case records.

(n)1. Peer support services shall:

a. Be social and emotional support that is provided by an individual who is experiencing a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorder to a recipient by sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorder in order to bring about a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided by a self-identified consumer or parent or family member of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health disorder services and substance use disorder services who has been trained and certified in accordance with 908 KAR 2:220;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient; and

f. Be identified in each recipient's treatment plan.

2. To provide peer support services an RHC shall:

1 a. Have demonstrated the capacity to provide the core elements of peer support ser-
2 vices for the behavioral health population being served including the age range of the
3 population being served;

4 b. Employ peer support specialists who are qualified to provide peer support services
5 in accordance with 908 KAR 2:220;

6 c. Use a qualified mental health professional to supervise peer support specialists;

7 d. Have the capacity to employ staff authorized to provide comprehensive community
8 support services in accordance with subsection (2)(n) of this section and to coordinate
9 the provision of services among team members;

10 e. Have the capacity to provide the full range of comprehensive community support
11 services as stated in this subparagraph 1 of this paragraph;

12 f. Have demonstrated experience in serving individuals with behavioral health disor-
13 ders;

14 g. Have the administrative capacity to ensure quality of services;

15 h. Have a financial management system that provides documentation of services and
16 costs; and

17 i. Have the capacity to document and maintain individual case records.

18 (o)1. Mobile crisis services shall:

19 a. Be available twenty-four (24) hour a day, seven (7) day a week, every day of the
20 year; and

21 b. Be a crisis response in a home or community setting to provide an immediate
22 evaluation, triage, and access to acute substance use disorder services including
23 treatment and supports to:

1 (i) Reduce symptoms or harm; or

2 (ii) Safely transition an individual in an acute crisis to appropriate crisis stabilization
3 and detoxification supports or services.

4 2. To provide mobile crisis services, an RHC shall have:

5 a. The capacity to employ staff authorized to provide day treatment services in ac-
6 cordance with subsection (3)(l) of this section and to coordinate the provision of ser-
7 vices among team members;

8 b. The capacity to provide the full range of residential crisis stabilization services as
9 stated in this paragraph and on a twenty-four (24) hour a day, seven (7) day a week,
10 every day of the year basis;

11 c. Access to a board certified or board-eligible psychiatrist twenty-four (24) hours a
12 day, seven (7) days a week, every day of the year;

13 d. Demonstrated experience in serving individuals with behavioral health disorders;

14 e. The administrative capacity to ensure quality of services;

15 f. A financial management system that provides documentation of services and
16 costs;

17 g. The capacity to document and maintain individual case records; and

18 h. Knowledge of substance use disorders.

19 (p)1. Assertive community treatment shall:

20 a. Be an evidence-based psychiatric rehabilitation practice which provides a compre-
21 hensive approach to service delivery for individuals with a serious mental illness;

22 b. Use a multidisciplinary team of at least two (2) of the following professionals:

23 (i) A psychiatrist;

1 (ii) A nurse;

2 (iii) A case manager; or

3 (iv) A therapist; and

4 c. Include:

5 (i) Assessment;

6 (ii) Treatment planning;

7 (iii) Case management;

8 (iv) Psychiatric services;

9 (v) Medication management administration;

10 (vi) Individual outpatient therapy;

11 (vii) Family outpatient therapy;

12 (viii) Group outpatient therapy;

13 (ix) Mobile crisis intervention;

14 (x) Mental health consultation; or

15 (xi) Family support and basic living skills.

16 2. To provide assertive community treatment services, an RHC shall:

17 a. Employ one (1) or more teams:

18 (i) Led by a qualified mental health professional; and

19 (ii) Comprised of at least four (4) full-time equivalents including a prescriber, a nurse,
20 a qualified mental health professional, a case manager, or a co-occurring disorder spe-
21 cialist;

22 b. Have adequate staffing to ensure that no caseload size exceeds ten (10) partici-
23 pants per team member;

1 c. Have the capacity to employ staff authorized to provide assertive community
2 treatment services in accordance with subsection (3)(p) of this section and to coordi-
3 nate the provision of services among team members;

4 d. The capacity to provide the full range of assertive community treatment services
5 as stated in this paragraph;

6 e. Demonstrated experience in serving individuals with persistent and serious mental
7 illness who have difficulty living independently in the community;

8 f. The administrative capacity to ensure quality of services;

9 g. A financial management system that provides documentation of services and
10 costs; and

11 h. The capacity to document and maintain individual case records.

12 (q)1. Intensive outpatient program services shall:

13 a. Be an alternative to inpatient hospitalization or partial hospitalization for a mental
14 health or substance use disorder;

15 b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that
16 is significantly more intensive than individual outpatient therapy, group outpatient thera-
17 py, or family outpatient therapy; and

18 c. Be provided at least three (3) hours per day at least three (3) days per week; and

19 d. Include:

20 (i) Individual outpatient therapy, group outpatient therapy, or family outpatient thera-
21 py unless contraindicated;

22 (ii) Crisis intervention; or

23 (iii) Psycho-education.

1 2. During psycho-education the recipient or family member shall be:

2 a. Provided with knowledge regarding the recipient's diagnosis, the causes of the
3 condition, and the reasons why a particular treatment might be effective for reducing
4 symptoms; and

5 b. Taught how to cope with the recipient's diagnosis or condition in a successful
6 manner.

7 3. An intensive outpatient program treatment plan shall:

8 a. Be individualized; and

9 b. Focus on stabilization and transition to a lesser level of care.

10 4. To provide intensive outpatient program services, an RHC shall have:

11 a. Access to a board-certified or board-eligible psychiatrist for consultation;

12 b. Access to a psychiatrist, other physician, or advanced practiced registered nurse
13 for medication management;

14 c. Adequate staffing to ensure a minimum recipient-to-staff ratio of four (4) clients to
15 one (1) recipient;

16 d. The capacity to provide services utilizing a recognized intervention protocol based
17 on recovery principles;

18 e. The capacity to employ staff authorized to provide intensive outpatient program
19 services in accordance with subsection (3)(q) of this section and to coordinate the pro-
20 vision of services among team members;

21 f. The capacity to provide the full range of intensive outpatient program services as
22 stated in this paragraph;

23 g. Demonstrated experience in serving individuals with behavioral health disorders;

1 h. The administrative capacity to ensure quality of services;

2 i. A financial management system that provides documentation of services and
3 costs; and

4 j. The capacity to document and maintain individual case records.

5 (r)1. Residential crisis stabilization services shall be provided in a crisis stabilization
6 unit.

7 2. A crisis stabilization unit shall:

8 a. Be a community-based, residential program that offers an array of services includ-
9 ing:

10 (i) Screening;

11 (ii) Assessment;

12 (iii) Treatment planning;

13 (iv) Individual outpatient therapy;

14 (v) Family outpatient therapy;

15 (vi) Group outpatient therapy; and

16 (vii) Psychiatric services;

17 b. Provide services in order to:

18 (i) Stabilize a crisis and divert an individual from a higher level of care;

19 (ii) Stabilize an individual and provide treatment for acute withdrawal, if applicable;

20 and

21 (iii) Re-integrate the individual into the individual's community or other appropriate
22 setting in a timely fashion;

23 c. Not be part of a hospital;

1 d. Be used when an individual:

2 (i) Is experiencing a behavioral health emergency that cannot be safely accommo-
3 dated within the individual's community; and

4 (ii) Needs overnight care that is not hospitalization; and

5 e. Not contain more than sixteen (16) beds; and

6 f. Not be part of multiple units comprising one (1) facility with more than sixteen (16)
7 beds in aggregate.

8 3. Residential crisis stabilization shall not include:

9 a. Room and board;

10 b. Educational services;

11 c. Vocational services;

12 d. Job training services;

13 e. Habilitation services;

14 f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;

15 g. Services to an individual residing in an institution for mental diseases pursuant to
16 42 C.F.R. 435.1010;

17 h. Recreational activities;

18 i. Social activities; or

19 j. Services required to be covered elsewhere in the state plan.

20 4. To provide residential crisis stabilization services, an RHC shall have:

21 a. The capacity to employ staff authorized to provide day treatment services in ac-
22 cordance with subsection (3)(l) of this section and to coordinate the provision of ser-
23 vices among team members;

1 b. The capacity to provide the full range of residential crisis stabilization services as
2 stated in this paragraph and on a services twenty-four (24) hour a day, seven (7) day a
3 week, every day of the year basis;

4 c. Access to a board certified or board-eligible psychiatrist twenty-four (24) hours a
5 day, seven (7) days a week, every day of the year;

6 d. Demonstrated experience in serving individuals with behavioral health disorders;

7 e. The administrative capacity to ensure the quality of services;

8 f. A financial management system that provides documentation of services and
9 costs;

10 g. The capacity to document and maintain individual case records; and

11 h. Knowledge of substance use disorders.

12 (s)1. Residential services for substance use disorders shall:

13 a. Be provided in twenty-four (24) hour per day units;

14 b. Be short or long term to provide intensive treatment and skills building in a struc-
15 tured and supportive environment;

16 c. Assist an individual in abstaining from alcohol or substance use and in entering al-
17 cohol or drug addiction recovery;

18 d. Be provided in a twenty-four (24) hour a day, live-in facility that offers a planned
19 and structured regimen of care aimed to treat individuals with addiction or co-occurring
20 mental health and substance use disorders;

21 e. Assist a recipient in making necessary changes in the recipient's life to enable the
22 recipient to live drug- or alcohol-free;

23 f. Lasts less than thirty (30) days;

1 g. Be provided under the medical direction of a physician;

2 h. Provide continuous nursing services;

3 i. Be based on individual need and may include:

4 (i) Screening;

5 (ii) Assessment;

6 (iii) Service planning;

7 (iv) Individual outpatient therapy;

8 (v) Group outpatient therapy; or

9 (vi) Family outpatient therapy; and

10 j. Be provided in accordance with 908 KAR 1:370.

11 2. A residential service for substance use disorder building shall have more than
12 eight (8) but less than seventeen (17) beds.

13 3. A short-term length-of-stay for residential services for substance use disorders
14 shall:

15 a. Be between fourteen (14) and twenty-eight (28) days in duration;

16 b. Include planned clinical program activities constituting at least fifteen (15) hours
17 per week of structured professionally-directed treatment activities to:

18 (i) Stabilize and maintain a person's substance use disorder; and

19 (ii) Help the recipient develop and apply recovery skills; and

20 c. May include the services listed in subparagraph 1.i. of this paragraph.

21 4. A long-term length-of-stay for residential services for substance use disorders
22 shall:

23 a. Be between twenty-eight (28) days and ninety (90) days in duration;

1 b. Include planned clinical program activities constituting at least forty (40) hours per
2 week of structured professionally-directed treatment activities to:

3 (i) Stabilize and maintain a person's substance use disorder; and

4 (ii) Help the recipient develop and apply recovery skills; and

5 c. May include the services listed in subparagraph 1.i. of this paragraph.

6 5. Residential services for a substance use disorder shall not include:

7 a. Room and board;

8 b. Educational services;

9 c. Vocational services;

10 d. Job training services;

11 e. Habilitation services;

12 f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;

13 g. Services to an individual residing in an institution for mental diseases pursuant to
14 42 C.F.R. 435.1010;

15 h. Recreational activities;

16 i. Social activities; or

17 j. Services required to be covered elsewhere in the state plan.

18 6. The physical structure in which residential services for a substance use disorder
19 are provided shall not:

20 a. Contain more than sixteen (16) beds; and

21 b. Be part of multiple units comprising one (1) facility with more than sixteen (16)
22 beds in aggregate.

23 7. To provide residential services for a substance use disorder, an RHC shall:

1 a. Have the capacity to employ staff authorized to provide day treatment services in
2 accordance with subsection (3)(l) of this section and to coordinate the provision of ser-
3 vices among team members;

4 b. Have the capacity to provide the full range of residential services for a substance
5 use disorder as stated in this paragraph;

6 c. Have demonstrated experience in serving individuals with behavioral health disor-
7 ders;

8 d. Have the administrative capacity to ensure quality of services;

9 e. Have a financial management system that provides documentation of services and
10 costs;

11 f. Have the capacity to document and maintain individual case records; and

12 g. Be licensed as a non-medical and non-hospital based alcohol and other drug
13 abuse treatment program in accordance with 908 KAR 1:370.

14 (t)1. Therapeutic rehabilitation program services shall:

15 a. Occur at the provider's site or in the community;

16 b. Be provided to an adult with a severe mental illness or to a child [under the age of
17 twenty-one (21) years] to enhance skills and offer experiential learning opportunities
18 that are aligned with treatment goals and recovery principles;

19 c. Not be a residential program; and

20 d. Be a day program based on the Fountain House clubhouse model of psychosocial
21 rehabilitation for individuals with a serious mental illness.

22 2. To provide therapeutic rehabilitation program services an RHC shall:

23 a. Have the capacity to employ staff authorized to provide therapeutic rehabilitation

program services in accordance with subsection (3)(q) of this section and to coordinate the provision of services among team members;

b. Have the capacity to provide the full range of therapeutic rehabilitation program services as stated in this paragraph;

c. Have demonstrated experience in serving individuals with mental health disorders;

d. Have the administrative capacity to ensure quality of services;

e. Have a financial management system that provides documentation of services and costs; and

f. Have the capacity to document and maintain individual case records.

(u)1. Parent or family peer support services shall:

a. Be emotional support that is provided by a parent or family member of a child who is experiencing a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorder to a parent or family member with a child sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorder in order to bring about a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided by a self-identified parent or family member of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health disorder services and substance use disorder services who has been trained and certified in accordance with 908 KAR 2:230;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of

1 community living skills for the recipient; and

2 f. Be identified in each recipient's treatment plan.

3 2. To provide parent or family peer support services a provider shall:

4 a. Have demonstrated the capacity to provide the core elements of parent or family
5 peer support services for the behavioral health population being served including the
6 age range of the population being served;

7 b. Employ family peer support specialists who are qualified to provide family peer
8 support services in accordance with 908 KAR 2:230;

9 c. Use a qualified mental health professional to supervise family peer support spe-
10 cialists;

11 d. Have the capacity to employ staff authorized to provide comprehensive community
12 support services in accordance with subsection (2)(n) of this section and to coordinate
13 the provision of services among team members;

14 e. Have the capacity to provide the full range of comprehensive community support
15 services as stated in this subparagraph 1 of this paragraph;

16 f. Have demonstrated experience in serving individuals with behavioral health disor-
17 ders;

18 g. Have the administrative capacity to ensure quality of services;

19 h. Have a financial management system that provides documentation of services and
20 costs; and

21 i. Have the capacity to document and maintain individual case records.

22 (5)(a) The following requirements shall apply to any provider of a service to a recipi-
23 ent for a substance use disorder or co-occurring mental health disorder and substance

use disorder:

1. The licensing requirements established in 908 KAR 1:370;

2. The physical plant requirements established in 908 KAR 1:370;

3. The organization and administration requirements established in 908 KAR 1:370;

4. The personnel policy requirements established in 908 KAR 1:370;

5. The quality assurance requirements established in 908 KAR 1:370;

6. The clinical staff requirements established in 908 KAR 1:370;

7. The program operational requirements established in 908 KAR 1:370; and

8. The outpatient program requirements established in 908 KAR 1:370.

(b) The detoxification program requirements established in 908 KAR 1:370 shall apply to a provider of a detoxification service.

(6) The extent and type of assessment performed at the time of a screening shall depend upon the problem of the individual seeking or being referred for services.

(7) A diagnosis or clinic impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

(8)(a) Direct contact between a provider or practitioner and a recipient shall be required for each service except for a collateral service for a child under the age of twenty-one (21) years if the collateral service is in the child's plan of care.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(9) A billable unit of service shall be actual time spent delivering a service in a face-to-face encounter.

1 (10) A service shall be:

2 (a) Stated in a recipient's treatment plan; and

3 (b) Provided in accordance with a recipient's treatment plan;

4 (c) Provided on a regularly scheduled basis except for a screening or assessment;

5 and

6 (d) Made available on a non-scheduled basis if necessary during a crisis or time of
7 increased stress for the recipient.

8 (11) The following services or activities shall not be covered under this administrative
9 regulation:

10 (a) A behavioral health service provided to:

11 1. A resident of:

12 a. A nursing facility; or

13 b. An intermediate care facility for individuals with an intellectual disability;

14 2. An inmate of a federal, local, or state:

15 a. Jail;

16 b. Detention center; or

17 c. Prison;

18 3. An individual with an intellectual disability without documentation of an additional
19 psychiatric diagnosis;

20 (b) Psychiatric or psychological testing for another agency, including a court or
21 school, that does not result in the individual receiving psychiatric intervention or behav-
22 ioral health therapy from the independent provider;

23 (c) A consultation or educational service provided to a recipient or to others;

1 (d) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

2 (e) A telephone call, an email, a text message, or other electronic contact that does
3 not meet the requirements stated in the definition of “face-to-face”;

4 (f) Travel time;

5 (g) A field trip;

6 (h) A recreational activity;

7 (i) A social activity; or

8 (j) A physical exercise activity group.

9 (12)(a) A consultation by one (1) provider or professional with another shall not be
10 covered under this administrative regulation except as specified in Section 3(4)(i).

11 (b) A third party contract shall not be covered under this administrative regulation.

12 Section 5. Provision of Services. An RHC shall comply with the service provision re-
13 quirements established by 42 C.F.R. 491.9.

14 Section 6.[4.] Immunizations. An RHC shall provide, upon request from a recipient,
15 the following covered immunizations:

16 (1) Diphtheria and tetanus toxoids and pertussis vaccine (DPT);

17 (2) Measles, mumps, and rubella virus vaccine live (MMR);

18 (3) Poliovirus vaccine, live, oral (any type(s)) (OPV); or

19 (4) Hemophilus B conjugate vaccine (HBCV).

20 Section 7. Medical Necessity Requirement. To be covered pursuant to this adminis-
21 trative regulation a service shall be:

22 (1) Medically necessary for the recipient; and

23 (2) Provided to a recipient.

1 Section 8. Non-covered Services. The following services shall not be covered as ru-
2 ral health clinic services:

3 (1) Services provided in a hospital as defined in 42 U.S.C. 1395x(e);

4 (2) Institutional services;

5 (3) Housekeeping, babysitting, or other similar homemaker services;

6 (4) Services which are not provided in accordance with restrictions imposed by law or
7 administrative regulation;

8 (5) A behavioral health service provided to:

9 (a) A resident of:

10 1. A nursing facility; or

11 2. An intermediate care facility for individuals with an intellectual disability;

12 (b) An inmate of a federal, local, or state:

13 1. Jail;

14 2. Detention center; or

15 3. Prison; or

16 (c) An individual with an intellectual disability without documentation of an additional
17 psychiatric diagnosis;

18 (6) Psychiatric or psychological testing for another agency, including a court or
19 school, that does not result in the individual receiving psychiatric intervention or behav-
20 ioral health therapy from the independent provider;

21 (7) A consultation or educational service provided to a recipient or to others;

22 (8) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

23 (9) A telephone call, an email, a text message, or other electronic contact that does

1 not meet the requirements stated in the definition of “face-to-face”;

2 (10) Travel time;

3 (11) A field trip;

4 (12) A recreational activity;

5 (13) A social activity; or

6 (14) A physical exercise activity group.

7 (15)(a) A consultation by one (1) provider or professional with another shall not be
8 covered under this administrative regulation except as specified in Section 2(2)(k).

9 (b) A third party contract shall not be covered under this administrative regulation.

10 Section 9. No Duplication of Service. (1) The department shall not reimburse for a
11 service provided to a recipient by more than one (1) provider, of any program in which
12 the service is covered, during the same time period.

13 (2) For example, if a recipient is receiving a service from an independent behavioral
14 health service provider, the department shall not reimburse for the same service pro-
15 vided to the same recipient during the same time period by a rural health clinic.

16 Section 10. Protection, Security and Records Maintenance Requirements for All Ser-
17 vices. (1)(a) A provider shall maintain a current health record for each recipient.

18 (b)1. A health record shall document each service provided to the recipient including
19 the date of the service and the signature of the individual who provided the service.

20 2. The individual who provided the service shall date and sign the health record on
21 the date that the individual provided the service.

22 (2)(a) Except as established in paragraph (b) of this subsection, a provider shall
23 maintain a health record regarding a recipient for at least five (5) years from the date of

1 the service or until any audit dispute or issue is resolved beyond five (5) years.

2 (b) If the Secretary of the United States Department of Health and Human Services
3 requires a longer document retention period than the period referenced in paragraph (a)
4 of this section, pursuant to 42 CFR 431.17, the period established by the secretary shall
5 be the required period.

6 (3)(a) A provider shall comply with 45 Chapter 164.

7 (b) All information contained in a health record shall:

8 1. Be treated as confidential;

9 2. Not be disclosed to an unauthorized individual; and

10 3. If requested, be disclosed to an authorized representative of:

11 a. The department; or

12 b. Federal government.

13 (c)1. Upon request, a provider shall provide to an authorized representative of the
14 department or federal government information requested to substantiate:

15 a. Staff notes detailing a service that was rendered;

16 b. The professional who rendered a service;

17 c. The type of service rendered and any other requested information necessary to
18 determine, on an individual basis, whether the service is reimbursable by the depart-
19 ment.

20 2. Failure to provide information referenced in subparagraph 1 of this paragraph shall
21 result in denial of payment for any service associated with the requested information.

22 Section 11. Documentation and Records Maintenance Requirements for Behavioral
23 Health Services. (1) The requirements in this section shall apply to health records asso-

1 ciated with behavioral health services.

2 (2) A health record shall:

3 (a) Include:

4 1. An identification and intake record including:

5 a. Name;

6 b. Social Security Number;

7 c. Date of intake;

8 d. Home (legal) address;

9 e. Health insurance information;

10 f. Referral source and address of referral source;

11 g. Primary care physician and address;

12 h. The reason the individual is seeking help including the presenting problem and di-
13 agnosis; and

14 i. Any physical health diagnosis, if a physical health diagnosis exists for the individu-
15 al, and information regarding:

16 (i) Where the individual is receiving treatment for the physical health diagnosis; and

17 (ii) The physical health provider;

18 k. The name of the informant and any other information deemed necessary by the
19 independent provider to comply with the requirements of:

20 (i) This administrative regulation;

21 (ii) The provider's licensure board;

22 (iii) State law; or

23 (iv) Federal law;

1 2. Documentation of the:
2 a. Screening;
3 b. Assessment;
4 c. Disposition; and
5 d. Six (6) month review of a recipient's treatment plan each time a six (6) month re-
6 view occurs; and

7 3. A complete history including mental status and previous treatment;

8 4. An identification sheet;

9 5. A consent for treatment sheet that is accurately signed and dated; and

10 6. The individual's stated purpose for seeking services.

11 (b) Be:

12 1. Maintained in an organized central file;

13 2. Furnished to the Cabinet for Health and Family Services upon request;

14 3. Made available for inspection and copying by Cabinet for Health and Family Ser-
15 vices' personnel;

16 4. Readily accessible;

17 5. Adequate for the purpose establishing the current treatment modality and progress
18 of the recipient;

19 (3) Documentation of a screening shall include:

20 (a) Information relative to the individual's stated request for services; and

21 (b) Other stated personal or health concerns if other concerns are stated.

22 (4)(a) A provider's notes regarding a recipient shall:

23 1. Be made within forty-eight (48) hours of each service visit;

1 2. Describe the:

2 a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

3 b. Therapist's intervention;

4 c. Changes in the treatment plan if changes are made; and

5 d. Need for continued treatment if continued treatment is needed.

6 (b)1. Any edit to notes shall:

7 a. Clearly display the changes;

8 b. Be initialed and dated.

9 2. Notes shall not be erased or illegibly marked out.

10 (c)1. Notes recorded by a practitioner working under supervision shall be co-signed

11 and dated by the supervising professional providing the service.

12 2. If services are provided by a practitioner working under supervision, there shall be
13 a monthly supervisory note recorded by the supervision professional reflecting consulta-
14 tions with the practitioner working under supervision concerning the:

15 a. Case; and

16 b. Supervising professional's evaluation of the services being provided to the recipi-
17 ent.

18 (5) Immediately following a screening of a recipient, the provider shall perform a dis-
19 position related to:

20 (a) An appropriate diagnosis;

21 (b) A referral for further consultation and disposition, if applicable; and

22 (c)1. Termination of services and referral to an outside source for further services; or

23 2. Termination of services without a referral to further services.

1 (6)(a) A recipient's treatment plan shall be reviewed at least once every six (6)
2 months.

3 (b) Any change to a recipient's treatment plan shall be documented, signed, and dat-
4 ed by the rendering provider.

5 (7)(a) Notes regarding services to a recipient shall:

6 1. Be organized in chronological order;

7 2. Dated;

8 3. Titled to indicate the service rendered;

9 4. State a starting and ending time for the service; and

10 5. Be recorded and signed by the rendering provider and included the professional
11 title (for example, licensed clinical social worker) of the provider.

12 (b) Initials, typed signatures, or stamped signatures shall not be accepted.

13 (c) Telephone contacts, family collateral contacts not coverable under this adminis-
14 trative regulation, or other non-reimbursable contacts shall:

15 1. Be recorded in the notes; and

16 2. Not be reimbursable.

17 (8) A termination summary shall:

18 (a) Be required, upon termination of services, for each recipient who received at least
19 three (3) service visits; and

20 (b) Contain a summary of the significant findings and events during the course of
21 treatment including the:

22 1. Final assessment regarding the progress of the individual toward reaching goals
23 and objectives established in the individual's treatment plan;

1 2. Final diagnosis of clinical impression;

2 3. Individual's condition upon termination and disposition.

3 (c) A health record relating to an individual who terminated from receiving services
4 shall be fully completed within ten (10) days following termination.

5 (9) If an individual's case is reopened within ninety (90) days of terminating services
6 for the same or related issue, a reference to the prior case history with a note regarding
7 the interval period shall be acceptable.

8 (10) If a recipient is transferred or referred to a health care facility or other provider
9 for care or treatment, the transferring provider shall, if the recipient gives the provider
10 written consent to do so, forward a copy or summary of the recipient's health record to
11 the health care facility or other provider who is receiving the recipient.

12 (11)(a) If a provider's Medicaid Program participation status changes as a result of
13 voluntarily terminating from the Medicaid Program, involuntarily terminating from the
14 Medicaid Program, a licensure suspension, or death of the provider, the health records
15 of the provider shall:

16 1. Remain the property of the provider; and

17 2. Be subject to the retention requirements established in subsection (13) of this sec-
18 tion.

19 (b) A provider shall have a written plan addressing how to maintain health records in
20 the event of the provider's death.

21 Section 12. Medicaid Program Participation Requirements. (1)(a) A participating
22 RHC shall be currently:

1 1. Enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;
2 and

3 2. Except as established in paragraph (b) of this subsection, participating in the Ken-
4 tucky Medicaid program in accordance with 907 KAR 1:671.

5 (b) In accordance with Section 3(3) of 907 KAR 17:010, a provider of a service to an
6 enrollee shall not be required to be currently participating in the Medicaid Program if the
7 managed care organization in which the enrollee is enrolled does not require the pro-
8 vider to be currently participating in the Medicaid Program.

9 (2)(a) To be initially enrolled with the department, an RHC shall:

10 1. Enroll in accordance with 907 KAR 1:672; and

11 2. Submit proof of its certification by the United States Department of Health and
12 Human Services, Health Resources and Services Administration as an RHC.

13 (b) To remain enrolled and participating in the Kentucky Medicaid program, an RHC
14 shall:

15 1. Comply with the enrollment requirements established in 907 KAR 1:672;

16 2. Comply with the participation requirements established in 907 KAR 1:671; and

17 3. Annually submit proof of its certification by the United States Department of Health
18 and Human Services, Health Resources and Services Administration as an RHC to the
19 department.

20 (3) An RHC that has been terminated from federal participation shall be terminated
21 from Kentucky Medicaid program participation.

22 (4) A participating RHC and its staff shall comply with all applicable federal laws and
23 regulations, state laws and administrative regulations, and local laws and

1 regulations regarding the administration and operation of an RHC.

2 (5)(a) If an RHC receives any duplicate payment or overpayment from the depart-
3 ment, regardless of reason, the provider shall return the payment to the department.

4 (b) Failure to return a payment to the department in accordance with paragraph (a) of
5 this section may be:

6 1. Interpreted to be fraud or abuse; and

7 2. Prosecuted in accordance with applicable federal or state law.

8 Section 13. Third Party Liability. A provider shall comply with KRS 205.622.

9 Section 14. Use of Electronic Signatures. (1) The creation, transmission, storage,
10 and other use of electronic signatures and documents shall comply with the require-
11 ments established in KRS 369.101 to 369.120.

12 (2) A provider that chooses to use electronic signatures shall:

13 (a) Develop and implement a written security policy that shall:

14 1. Be adhered to by each of the provider's employees, officers, agents, or contrac-
15 tors;

16 2. Identify each electronic signature for which an individual has access; and

17 3. Ensure that each electronic signature is created, transmitted, and stored in a se-
18 cure fashion;

19 (b) Develop a consent form that shall:

20 1. Be completed and executed by each individual using an electronic signature;

21 2. Attest to the signature's authenticity; and

22 3. Include a statement indicating that the individual has been notified of his responsi-
23 bility in allowing the use of the electronic signature; and

1 (c) Provide the department with:

2 1. A copy of the provider's electronic signature policy;

3 2. The signed consent form; and

4 3. The original filed signature immediately upon request.

5 Section 15. Auditing Authority. The department shall have the authority to audit any:

6 (1) Claim;

7 (2) Medical record; or

8 (3) Documentation associated with any claim or medical record.

9 Section 16. Federal Approval and Federal Financial Participation. The department's
10 coverage of services pursuant to this administrative regulation shall be contingent upon:

11 (1) Receipt of federal financial participation for the coverage; and

12 (2) Centers for Medicare and Medicaid Services' approval for the coverage.

13 Section 17. Appeals. (1) An appeal of an adverse action by the department regarding
14 a service and a recipient who is not enrolled with a managed care organization shall be
15 in accordance with 907 KAR 1:563.

16 (2) An appeal of an adverse action by a managed care organization regarding a ser-
17 vice and an enrollee shall be in accordance with 907 KAR 17:010.(Recodified from 904
18 KAR 1:082, 5-2-86; Am. 15 Ky.R. 1329; eff. 12-13-88; 34 Ky.R. 1831; 2116; eff. 4-4-
19 08.)

907 KAR 1:082

REVIEWED:

Date

Lawrence Kissner, Commissioner
Department for Medicaid Services

APPROVED:

Date

Audrey Tayse Haynes, Secretary
Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on February 21, 2014 at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing February 14, 2014, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until February 28, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40601, (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 1:082
Cabinet for Health and Family Services
Department for Medicaid Services
Agency Contact: Stuart Owen (502) 564-4321

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program rural health clinic (RHC) services.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions and requirements regarding Medicaid Program RHC services.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program RHC services.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program RHC services.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: The primary amendment authorizes rural health clinics to provide substance use disorder services and expands these providers' scope of behavioral health services as well as expands the types of practitioners/professionals who can provide behavioral health services in a rural health clinic. Additional amendments include inserting various program integrity requirements such as requiring RHCs to bill third parties for services if a third party is involved and not duplicate bill for a service provided to the recipient by another provider. Other amendments include establishing that RHCs must comply with records maintenance/security requirements and Medicaid provider participation requirements. A new section is added to authorize RHCs to utilize electronic signatures. Another section is added to establish that the coverage provisions and requirements in this administrative regulation are contingent upon federal approval and federal funding. Another new section clarifies that The Department for Medicaid Services (DMS) can audit any claim or medical record or documentation associated with any claim or medical record. Lastly, a section establishing recipient appeal rights regarding an adverse action is added.
 - (b) The necessity of the amendment to this administrative regulation: The primary amendment – amendment related to substance use disorder services and mental health services – is necessary to comply with a federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act mandates that “essential health bene-

fits” for Medicaid programs include “mental health and substance use disorder services, including behavioral health treatment.” Additionally, the Department for Medicaid Services (DMS) is anticipating a substantial increase in demand for services as a result of new individuals gaining Medicaid eligibility in 2014. Some new individuals will be those eligible as part of the “expansion group” (a new eligibility group authorized by the Affordable Care Act which is comprised of adults under age sixty-five (65), who are not pregnant, whose income is below 133% of the federal poverty level, and who are not otherwise eligible for Medicaid.) Another newly eligible group is a group mandated by the Affordable Care Act comprised of former foster care children between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid benefits. Furthermore, DMS anticipates a significant enrollment increase of individuals eligible under the “old” Medicaid rules who did not seek Medicaid benefits in the past, but will do so as a result of publicity related to the Affordable Care Act, Medicaid expansion, and the Health Benefit Exchange. The Medicaid Program is required to ensure that recipients have access to services. Other amendments are necessary to enhance program integrity requirements, establish that provisions and requirements are contingent upon federal funding (in order to protect state taxpayer generated funds), and establish appeal rights for Medicaid recipients.

- (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by complying with an Affordable Care Act mandate, enhancing recipient access to services, enhancing program integrity requirements, protecting state taxpayer generated funds, and establishing appeal rights for Medicaid recipients.
 - (d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by complying with an Affordable Care Act mandate, enhancing recipient access to services, enhancing program integrity requirements, protecting state taxpayer generated funds, and establishing appeal rights for Medicaid recipients.
- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Rural health clinics will be affected by this amendment. Additionally, licensed psychologists, advanced practice registered nurses, licensed professional clinical counselors, licensed clinical social workers, licensed marriage and family therapists, licensed psychological practitioners, licensed psychological associates, certified social workers (master’s level), licensed professional counselor associates, and marriage and family therapy associates who wish to provide substance use disorder services or the enhanced behavioral health services (established in this amendment) while working for or under contract with an RHC will also be affected by this administrative regulation. Medicaid recipients who qualify for substance use disorder services or the enhanced scope of behavioral health services will be affected by this amendment.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted

by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. RHCs will need to ensure that they use the practitioners authorized in this administrative regulation to provide the new scope of services (expanded behavioral health services and substance use disorder services) if the given RHC wishes to expand its scope of services accordingly.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is anticipated as expanding the scope of services is voluntary.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3). RHCs will benefit by being authorized to provide more services. The expanded types of behavioral health practitioners/professionals will benefit by having more employment opportunities in which to provide services. Medicaid recipients will benefit by having enhanced access to behavioral health services including substance use disorder services.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: DMS is unable to accurately estimate the costs of expanding the scope of behavioral health services covered in rural health clinics due to the variables involved as DMS cannot estimate how many rural health clinics will choose to accordingly expand their scope of services nor how many Medicaid recipients will elect to receive the expanded scope of behavioral health services in rural health clinics.
 - (b) On a continuing basis: The response in paragraph (a) above also applies here.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is necessary to implement this administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used.) Tiering is not applied as the policies apply equally to the regulated entities..

FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 907 KAR 1:082

Agency Contact: Stuart Owen (502) 564-4321

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), 42 U.S.C. 1396d(a)(2)

2. State compliance standards. KRS 205.520(3) states:

“Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.”

3. Minimum or uniform standards contained in the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act mandates that “essential health benefits” for Medicaid programs include “mental health and substance use disorder services, including behavioral health treatment.”

42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to “provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services.” Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization’s provider network.

The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky’s Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its substance use disorder provider base to comport with the freedom of choice of provider requirement.

42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area.

42 U.S.C. 1396d(a)(2) requires Medicaid program coverage of:

“(A) outpatient hospital services, (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)(1)) and any other ambulatory

services which are offered by a rural health clinic (as defined in subsection (I)(1)) and which are otherwise included in the plan, and (C) Federally-qualified health center services (as defined in subsection (I)(2) and any other ambulatory services offered by a Federally-qualified health center and which are otherwise included in the plan.”

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 907 KAR 1:082

Agency Contact: Stuart Owen (502) 564-4321

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation as will any RHC owned by a local government agency.
2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The Department for Medicaid Services (DMS) is unable to project the impact of this amendment on revenues for state or local government agencies as it depends on how many rural health clinics that are owned by a government entity elect to expand their scope of services to include substance use disorder services and other new behavioral health services and on utilization of those services in such entities.
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response to question (a) also applies here.
 - (c) How much will it cost to administer this program for the first year? DMS is unable to accurately estimate the costs of expanding the scope of behavioral health services covered in rural health clinics due to the variables involved as DMS cannot estimate how many rural health clinics will choose to accordingly expand their scope of services nor how many Medicaid recipients will elect to receive the expanded scope of behavioral health services in rural health clinics.
 - (d) How much will it cost to administer this program for subsequent years? The response to question (c) above also applies here.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: